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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके ।
Separate paging is given to this Part in order that it may be filed as a separate compilation

RAJYA SABHA

The following Bills were introduced in the Rajya Sabha on the 30th April, 1987:—

I

BILL No. XV OF 1987

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Thirty-eighth Year of the Republic of India as follows:—

Short title and commencement.

1. (1) This Act may be called the Constitution (Amendment) Act, 1987.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Insertion of new article 19A.

2. After article 19 of the Constitution, the following article shall be inserted, namely:—

Right to information.

"19A (1) Every citizen shall be entitled to have full and complete information regarding the affairs of the Government and Official Acts of those who represent them as public officials and employees.

(2) Nothing in this article shall prevent the State from making any law, from time to time prescribing the type of information which may need protection from disclosure.".

STATEMENT OF OBJECTS AND REASONS

Innumerable instances can be given where even most trivial matters are treated as secret and confidential which do not serve any interest of the nation except perhaps saving the Government from embarrassment. The reports of various enquiry committees and commissions (like plane crashes or accidents) are treated as secret. It may be recalled that even the recommendations of the Inter-Departmental Study Group set up by the Government in 1977 to look into the Official Secrets Act, 1913 have been treated as confidential. This was stated by the then Home Minister Shri H. M. Patel in Lok Sabha in July, 1979 that it would not be in the "public interest" to disclose the recommendations of the Study Group.

Though openness is essential to the functioning of a democratic society, yet secrecy also bears the same quality so as to protect certain vital national interests and for a few other reasons. A proper balance has to e bmade between the needs of openness and the requirements of secrecy, but this balance has to be tilted in favour of openness than it had been hitherto. In other words, till now secrecy was the rule rather than the exception, but this proposition has now to be reversed. The exceptions to openness should be well defined and formulated. The general and the vague expression "public interest" cannot be a ground for secrecy. It is essential to lay down more definite guidelines for exercising secrecy by the Government.

It is for this reason that right to information is sought to be made a fundamental right of the citizen. Of course it is conceded that there will be certain documents which need protection and which cannot be revealed e.g. information prejudicial to the security of the State, information concerning defence or security of the nation, foreign relations. Cabinet proceedings and documents, etc. State should be empowered to make laws in which official documents which are to be kept secret shall be closely defined.

The Bill seeks to achieve this objective to some extent.

CHITTA BASU

II

BILL NO. IX OF 1987

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Thirty-eighth Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Amendment) Act, 1987. Short title and commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In article 22 of the Constitution, clause (6) shall be omitted. Amendment of Article 22.

STATEMENT OF OBJECTS AND REASONS

Recent experience has shown that the fundamental rights, including those of life and liberty, granted to citizens by the Constitution are being eroded by the executive. As a check against the misuse of preventive detention laws and to put the right to life and liberty on a more secure footing, it is necessary that the power to withhold the facts or grounds of detention in respect of any detenu, which the concerned authority considers to be against the public interest to disclose, should be done away with.

Hence this Bill.

CHITTA BASU.

III

BILL No. XVI OF 1987

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Thirty-eighth Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 1987. Short title.

2. In article 200 of the Constitution for the words "the Governor shall declare either that he assents to the Bill or that he withholds assent therefrom or that he reserves the Bill for the consideration of the President:", the words "the Governor shall as soon as possible and in any case not later than three months after the presentation to him of the Bill for assent, declare either that he assents to the Bill or that he withholds assent therefrom:" shall be substituted. Amendment of article 200.

3. In article 201 of the Constitution, for the words "the President shall declare", the words "the President shall, as soon as possible and in any case not later than three months after the Bill has been reserved by the Governor for his consideration declare" shall be substituted. Amendment of article 201.

STATEMENT OF OBJECTS AND REASONS

Articles 200 and 201 of the Constitution provide for assent to the Bills passed by the State Legislatures. The Bills passed by the State Legislatures are presented to the Governor for his assent and the Governor declares either that he assents to the Bill or that he withholds assent therefrom or that he reserves the Bill for the consideration of the President. There are two infirmities in this process. One is that there is no time limit for the Governor for declaring his decision. The other is that there is general discretionary power with the Governor to reserve any Bill for the consideration of the President. Except in the second proviso to article 200 and clause (2) of article 288, there is no other specific provision in the Constitution which requires a Bill passed by a State Legislature to be reserved for the consideration of the President.

The experience during the last 37 years has shown firstly, that the Governor often takes unusually long time to declare his assent to the detriment of the interests of the people by causing delay to give effect to the mandate received from the electorate by the power that be; and secondly, the Governor may withhold his assent to the Bills and reserve for the consideration of the President any Bill whether covering a subject falling under the State List or the Concurrent List, which again restrains the power that be, from expeditiously giving effect to the mandate obtained by it from the people. Instances are there which show that some Bills passed by the State Legislatures were not given Presidential assent even after two and a half years from the date of their receipt by the President. If a time limit is imposed within which the Governor and the President shall dispose of the matter, this kind of situation may be averted. At the same time, the Governor's right to reserve the Bills for the consideration of the President should be confined only to those Bills passed by a State Legislature which are required to be reserved for the assent of the President under the specific provisions of the Constitution. The general discretion given to the Governor at present in this regard under the existing provisions of article 200 should be withdrawn.

Hence this Bill.

CHITTA BASU.

IV

BILL No. VII OF 1987

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Thirty-eighth Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 1987. **Short title.**

2. In article 134 of the Constitution, for sub-clause (*a*) of clause (*1*) the following clause shall be substituted, namely:— **Amendment of article 134.**

"(*a*) has on appeal confirmed an order of conviction or reversed an order of acquittal of an accused person and sentenced him to death; or".

STATEMENT OF OBJECTS AND REASONS

Death punishment is qualitatively different from any other punishment including life imprisonment in as much as it is irreversible. It cannot be revoked if subsequently it is found that the person sentenced to death was wrongly convicted and the miscarriage of justice becomes irrevocable.

The Supreme Court in Bachan Singh's case (1983 SCR 145) by majority of 4 to 1 has upheld the validity of dealth punishment. However, when a person is convicted for murder under section 302 of Indian Penal Code, the Judge can award either death penalty or life imprisonment. All that he is required to do under section 354(3) is to give special reasons if he chooses to impose the death punishment. Legislature has not provided any guidelines to the Court in exercise of its discretion in this delicate and important question of life and death. The majority decision of the Supreme Court in Bachan Singh's case that death punishment should be given "in rarest of the rare case" is equally vague. As such the exercise of discretion is bound to vary from Judge to Judge. What may appear to be a "Special reason" to one Judge may not appear the same to another Judge and the awful discretion whether to hang a man till his death or to let him live will, ultimately depend upon the Judge who is called upon to make the decision.

Some safeguards have been provided in sections 235(2), 366(1) and 379 of the Code of Criminal Procedure and article 134((1) of the Constitution to obviate errors in the exercise of judicial discretion in the matter of imposition of death penalty. Under article 136 of the Constitution the Supreme Court has discretionary powers to grant special leave to appeal. These legislative and Constitutional safeguards in the absence of any standards or principles provided by the legislature to guide the exercise of discretion in imposition of death penalty and in view of the fragmented bench structure of the High Courts and the Supreme Court, are frugal and peripheral.

Parliament recognizing the value of human liberty, has enacted the Supreme Court (enlargement of criminal appellate Jurisdiction) Act which provides for the right to appeal to the Supreme Court if a High Court has, on appeal, reversed the order of acquittal and has awarded imprisonment for life or imprisonment of 10 or more years.

The issue of eliminating or not eliminating life is for more important than even the question of liberty. Yet an accused person under sentence of death has no absolute right to appeal to Supreme Court. Right of appeal is provided under article 134(1) (a) only if a High Court reverses an order of acquittal and imposes death penalty.

To reduce the possibility of judicial error in the matter of deprivation of life especially when miscarriage of justice becomes irrevocable, this Bill proposes to provide for review of death sentence by the Supreme Court in every case where the death sentence is confirmed by the High Court and not in cases only when High Court reverses the acquittal and imposes death penalty.

Hence this Bill.

ATAL BIHARI VAJPAYEE.

V

BILL NO. XVIII OF 1987

A Bill to provide for prohibition of the formation of religious, communal and sectoral political parties and senas.

WHEREAS it has been noted that a large number of religious and communal groups have been forming political parties and senas for the purpose of elections to the Houses of Parliament and to the State Legislatures and seeking allotment of symbols and seeking registration of the Senas as Associations and Societies giving rise to a situation where narrow religious, communal and sectoral considerations take the place of consideration for socio-economic policies;

AND WHEREAS such a situation is inconsistent with the principles of sovereign, socialist, secular, democratic Republic and unity and integrity of the nation as contemplated under the Preamble to the Constitution and the rich cultural secular heritage of our nation;

AND WHEREAS it is considered expedient in the interest of purity of elections to the Houses of Parliament and legislatures of various States and in the interest of elections to be held in a fair and efficient manner to prohibit the formation of religious and communal political parties and to eradicate the formation of senas by communal groups.

BE it enacted by Parliament in the Thirty-eighth Year of the Republic of India as follows :—

Short title, extent and commencement.

1. (*1*) This Act may be called the Prohibition of Religious, Communal and Sectoral Political Parties and Senas Act, 1987.

(*2*) It extends to the whole of India.

(*3*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Prohibition of religious or communal political parties and Senas.

2. The political parties and Senas based on a single religion or formed by a religious or communal body are hereby prohibited.

STATEMENT OF OBJECTS AND REASONS

Lately, a dangerous tendency has been growing among the people to organise themselves on religious, caste and communal lines and actively interfering in the political activities of the country for the narrow, partisan, religious and communal considerations of a particular religion or caste either directly or indirectly forming their own political wings, militant senas etc. This tendency will help only to sideline the most important Socio-economic problems of the people of our country. It has given rise to a number of communal riots, may be on the question of the location or origin of a particular temple, or a mosque or a church or on same religious processions, recently in different parts of the country creating communal tension and making the normal living miserable. Besides, the growth of such narrow tendencies is a grave threat to the very unity and integrity of the country and against the accepted principles of sovereignty, socialism, secularism and democracy in our constitution.

So there is urgent need to ban all the parties and militant senas formed on the basis of a single religion, caste or communal body and delink religion from politics.

Hence this Bill.

GURUDAS DAS GUPTA

SUDARSHAN AGARWAL,
Secretary-General.

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